

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re DAVID J. SCOTT,

Petitioner,

Case No. 07-15472

Honorable Nancy G. Edmunds

ORDER OF DISMISSAL

This matter comes before the Court on its own motion. Being fully advised in the premises, having read the pleadings, and for the reasons set forth below, the Court DISMISSES this matter.

On December 26, 2007, Petitioner filed a Petition for Removal seeking to remove to this Court two state court criminal matters pending in Livingston County District Court. On December 13, 2007, in Case No. 07-6003-FY, Petitioner was charged in state court with possession of a controlled substance with intent to deliver in violation of Mich. Comp. Laws § 333.74012A4. On that same date, in Case No. 07-6249-SD, Petitioner was charged in state court with operating a vehicle with the presence of a controlled substance in violation of Mich. Comp. Laws § 257.6258. Bond was set at \$200,000 cash/surety. At the time he filed his Petition for Removal, Petitioner was unable to post bond and thus remained in the Livingston County jail. Petitioner requests that this Court enter an order staying the pending state-court criminal matters and remove them to this Court so that it can hold an evidentiary hearing and set a “reasonable” bond for Petitioner.

This matter is dismissed because (1) if construed as a Petition for Removal, no grounds exist for removal jurisdiction pursuant to 28 U.S.C. § 1446; and (2) if construed as a complaint brought under 42 U.S.C. § 1983, application of the *Younger abstention* doctrine counsels this Court to abstain from adjudicating this matter out of deference to ongoing state criminal proceedings. See *Younger v. Harris*, 401 U.S. 37, 37-38 (1971). It is evident from the pleadings that there are ongoing state criminal proceedings, that the criminal proceedings implicate important state interests in enforcement of its criminal laws, and that there is an adequate opportunity in the state proceedings for Petitioner to raise the constitutional challenges implicated in his Petition. See *Tindall v. Wayne County Friend of the Court*, 269 F.3d 533 (6th Cir. 2001).

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: February 4, 2008

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 4, 2008, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager